

## Message Text

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ACTION IO-14

INFO OCT-01 AF-10 ARA-16 EA-11 EUR-25 NEA-10 RSC-01 ADP-00

CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10

PA-03 PRS-01 SS-15 USIA-15 OIC-04 CPR-02 SY-10 USSS-00

FBIE-00 SCA-01 EB-11 M-03 A-01 RSR-01 /188 W

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R 100005Z AUG 73

FM USMISSION USUN NY

TO SECSTATE WASHDC 9016

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY BRUSSELS

AMEMBASSY BONN

USMISSION GENEVA

AMEMBASSY OTTAWA

AMEMBASSY STOCKHOLM

AMEMBASSY COPENHAGEN

AMEMBASSY VIENNA

AMEMBASSY CANBERRA

AMEMBASSY HAGUE

AMEMBASSY TOKYO

AMEMBASSY ROME

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E.O. 11652: GDS

TAGS: PFOR, PINS, UN, NL, AS, AU, UK, BE, GW, FR, SW

SUBJ: CONVENTION ON PROTECTION OF DIPLOMATS

REF: USUN 2539 (NOTAL) AND USUN 2570 (NOTAL) USUN 2806 (NOTAL)

SUMMARY: VAN BRUSSELEN (BELGIUM) GROUP MET  
AUG 9 TO CONTINUE REVIEW OF ILC DRAFT ARTICLES ON  
PROTECTION OF DIPLOMATS. PRESENT WERE SWEDEN, US,  
CANADA, UK, BELGIUM, JAPAN, AUSTRALIA, ITALY, FRG,  
NETHERLANDS, FRANCE AND DENMARK. BELGIUM CIRCULATED  
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DRAFTS OF ARTICLES 1 AND 2 BASED ON DISCUSSIONS AT

MEETING AUG 6 (TRANSMITTED SEPTELS, NOTAL). AFTER BRIEF DISCUSSION OF THESE DRAFTS, GROUP REVIEWED REMAINDER OF ARTICLES. GROUP DECIDED TO CONVENE NEXT MEETING SEPT 5, AT WHICH BOTH TEXTS AND TACTICS WILL BE DISCUSSED. END SUMMARY.

1. VAN BRUSSELEN DISTRIBUTED COMPOSITE TEXT OF ARTICLE 1 AND THREE VERSIONS OF ARTICLE 2 WHICH HE HAD DRAFTED ON BASIS PREVIOUS MEETING. THESE TEXTS TRANSMITTED SEPTELS. JAPAN REFERRED TO VERSION 2 OF ARTICLE 2 AND INDICATED THIS TEXT INACCURATE IN THAT IT FAILED TO TAKE UP JAPANESE PROPOSAL ON MOTIVE (PARA 2 OF USUN 2806). HE ALSO SAID GOJ HAD MADE NO FINAL DECISION ON UNIVERSAL JURISDICTION ASPECT. FINALLY, SUPPORTED BY UK, HE SAID PHRASE "WHICH TAKE INTO ACCOUNT .... OFFENSES" IN PARA 2 SHOULD BE DELETED. FRG HAD PROBLEM WITH TERM "MURDER" WHICH THOUGHT TO BE TOO LIMITED. SWEDEN SUPPORTED JAPANESE PROPOSAL FOR SUBPARA (A).

2. RE VERSION 1 OF ARTICLE 2, VAN BRUSSELEN NOTED HE UNABLE TO FIND GOOD FRENCH TRANSLATION FOR TERM "SERIOUS" IN ENGLISH. SWEDEN RECOMMENDED REVISING LANGUAGE AT END OF PARA 1 TO TAKE INTO ACCOUNT US SUGGESTION (PARA 2 OF USUN 2806) SO THAT TEXT WOULD READ "PROVIDED THE ALLEGED OFFENDER KNEW OR OUGHT TO HAVE KNOWN OF THE OFFICIAL STATUS OF THE VICTIM." SWEDEN SUPPORTED UK SUGGESTION THAT THIS LANGUAGE SHOULD NOT REFER TO "FULL" KNOWLEDGE OF THE STATUS OF THE VICTIM.

3. RE UK PROPOSAL TRANSMITTED PARA 4 OF USUN 2806, SWEDEN SAID GOS COULD ACCEPT UNIVERSAL JURISDICTION, BUT COULD ALSO ACCEPT UK PROPOSAL. UK EXPLAINED THAT TRUE UNIVERSAL JURISDICTION SHOULD BE LIMITED TO VERY SMALL NUMBER OF OFFENSES SUCH AS PIRACY AND THAT OFFENSES COVERED BY THIS CONVENTION SHOULD BE TREATED IN MANNER SIMILAR TO HAGUE CONVENTION. BELGIUM, JAPAN AND NETHERLANDS SAID THEY HAD NO COMMENTS FROM THEIR CAPITALS ON UK TEXT, BUT IN CONFIDENTIAL

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PRINCIPLE FAVORED THIS PROPOSAL. AUSTRALIA INQUIRED OF DIFFERENCE BETWEEN ILC DRAFT AND UK DRAFT. US EXPLAINED DIFFERENCE AND ARGUED FOR ILC VERSION, RECOGNIZING THAT AS FINALFallback IT MIGHT BE NECESSARY TO ACCEPT UK POSITION BUT ARGUING THAT THIS NOT TIME DO SO. UK SAID REASONING GIVEN BY US HIGHLIGHTED POTENTIAL GRAVE POLITICAL PROBLEMS INHERENT IN UNIVERSAL JURISDICTION AND GAVE

AS EXAMPLE A STATE PRTY TO CONVENTION  
HAVING NO CONTACT WITH PARTICULAR CRIME TRYING  
OFFENDER IN ABSENTIA UNDER UNIVERSAL JURISDICTION  
PROVISION.

4. RE ARTICLE 3, BELGIAN MENTIONED HIS PROPOSAL  
FOR BRINGING THIS ARTICLE INTO LINE WITH ARTICLE 10(1)  
OF MONTREAL CONVENTION. UK SUPPORTED. US ARGUED  
FOR STONGER TEXT IN ILC DRAFT.

5. RE ARTICLE 4, UK AND FRG SUGGESTED LIMITING  
STATES TO WHICH IT NECESSARY TO PROVIDE INFORMATION,  
BUT SAID THIS NOT VERY IMPORTANT CHANGE. UK  
SUGGESTED, IF ITS PROPOSAL CONTAINED PARA 4 OF  
USUN 2806 ACCEPTED, THAT ARTICLE 4 BE CHANGED  
TO READ "...COMMUNICATE TO THE OTHER STATES  
TO WHICH IT BELIEVES THE OFFENDER MAY HAVE FLED  
...." FRG SUGGESTED SPECIFYING STATES INSTEAD OF  
REFERRING TO ARTICLE 2A. US SAID THIS AMENDMENT  
CONSEQUENTIAL IF UK SCHEME RE JURISDICTION ACCEPTED  
AND STRESSED IMPORTANCE KEEPING CURRENT ARTICLE 4  
IF ILC TEXT ON JURSIDCTION REMAINED INTACT.  
RE ARTICLE 5, BELGIAN MENTIONED THAT MOST HAD  
FAVORED REPLACING BY ARTICLE 6 OF MONTREAL CONVENTION,  
BUT US EXPRESSED RETICENCE. UK SUGGESTED TECHNICAL  
CHANGE OF PROVIDING FOR NOTIFICATION TO IOS IN  
PARA 2.

6. RE ARTICLE 6, BELGIAN SAID MOST WANTED TO USE  
HAGUE-MONTREAL FORMULA.

7. RE ARTICLE 7, BELGIAN SUMMARIZED SUGGESTIONS AS:  
LOWER TIME LIMIT FROM SIX TO THREE MONTHS; BRINGING  
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CLOSER TO ARTICLE 8 OF HAGUE CONVENTION; DELETE  
WORD "PROCEDURAL"; DROP PARA 4; REPLACE PARA 4 WITH  
UK AMENDMENT CONTAINED PARA 4 OF USUN 2806. BELGIAN  
SAUD GUS GIVERBNEBT CIYKD ACCEPT THREE MONTHS, AND  
WOULD LIKE TO SEE WHOLE ARTICLE REPLACED PURE AND  
SIMPLE BY HAGUE ARTICLE 8. UK SUPPORTED AMENDMENT IT  
PUT FORWARD AUG 6. US SAID INCLUSION OF PARA 4  
DEALING WITH PRIORITIES FOR EXTRADITION AND INCLUSION  
OF PARA ALONG LINES UK PROPOSAL DEPENDED UPON  
DECISION ON UNIVERSAL JURISDICTION. HE NOTED THAT  
IF ILC SCHEME RETAINED, PRIORITY SCHEME MORE  
IMPORTANT THAN IF UK SCHEME ACCEPTED, AND THAT IF  
ILC SCHEME RETAINED, UK PROPOSAL REPEATING ARTICLE 8(4)  
OF HAGUE CONVENTION NOT REQUIRED. BELGIAN SUMMED  
UP BY SAYING NO ONE HAD GRAVE OBJECTIONS TO ADOPTION

OF HAGUE ARTICLE 8.

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INFO OCT-01 AF-10 ARA-16 EA-11 EUR-25 NEA-10 RSC-01 ADP-00

CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10

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FBIE-00 SCA-01 EB-11 M-03 A-01 RSR-01 /188 W

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R 100005Z AUG 73

FM USMISSION USUN NY

TO SECSTATE WASHDC 9017

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY BRUSSELS

AMEMBASSY BONN

USMISSION GENEVA

AMEMBASSY OTTAWA

AMEMBASSY STOCKHOLM

AMEMBASSY COPENHAGEN

AMEMBASSY VIENNA

AMEMBASSY CANBERRA

AMEMBASSY HAGUE

AMEMBASSY TOKYO

AMEMBASSY ROME

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8. THERE NO COMMENT ON ARTICLE 8. RE ARTICLE 9,  
IT SUGGESTED THAT ARTICLE DEPENDED ON FINAL VERSION OF  
ARTICLE 2. JAPAN, FRG AND SWEDEN, HOWEVER, OBJECTED  
TO THIS ARTICLE.

9. RE ARTICLE 10, BELGIAN HAD SUGGESTED REPLACING  
BY ARTICLE 10 OF HAGUE CONVENTION. US ARGUED THAT  
INCLUSION OF PROVISION ON SUPPLY OF EVIDENCE VERY  
IMPORTANT ADVANCE AND SHOULD BE KEPT. THERE NO COMMENT  
ON ARTICLE 11.

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10. RE ARTICLE 12, BELGIAN SUMMARIZED VIEWS OF GROUP:  
MOST THOUGHT REFERENCE TO ICI NEEDED; IF NOT  
POSSIBLE, ENVISAGE ARBITRATION OF CONCILIATION; DISPUTE  
SETTLEMENT PROVISION ESSENTIAL; MOST PREFER ALTERNATE  
B, EXCEPT BELGIUM WHICH HAD PREFERRED A BUT COULD  
TAKE B; SOME SUGGESTED USING HAGUE CONVENTION  
FORMULA. AUSTRALIA NOTED US PROPOSAL TO COMBINE  
ALTERNATES A AND B (PER DRAFT POSITION PAPER) AND,  
AT REQUEST OF GROUP, US DISTRIBUTED TEXT SHOWING  
HOW ARTICLES 12 AND 13 WOULD READ UNDER THIS  
PROPOSAL. GROUP AGREED TO TAKE UP ISSUE AGAIN AT  
NEXT MEETING.

11. BELGIUM RECALLED PREVIOUS AUSTRALIAN PROPOSAL  
THAT CONVENTION INCLUDE PROVISION ON INDEMNIFICATION  
OF VICTIMS. BELGIUM, FRG, US, JAPAN, SWEDEN AND  
AUSTRALIA OPPOSED ON GROUND THAT THIS NOT PART OF  
SCOPE OF CURRENT CONVENTION AND WOULD CAUSE SERIOUS  
DIFFICULTIES BOTH IN SUBSTANCE AND TACTICS. FRG  
PROPOSED THAT CONVENTION CONTAIN PROVISION REQUIRING  
STATE PARTY IN WHICH OFFENSE OCCURRED TO NOTIFY SENDING  
STATE OF DIPLOMAT OF OFFENSE (EVEN IN CASES WHERE  
ALLEGED OFFENDER HAD NOT FLED TERRITORY AS PER  
ARTICLE 4). UK, NETHERLANDS, AND US GAVE TENTATIVE  
FAVORABLE REAXTIONS TO AIM OF THIS SUGGESTION.

12. HAVING CONCLUDED REVIEW OF DRAFT ARTICLES,  
VAN BRUSSELEN RAISED QUESTION OF FUTURE MEETINGS OF  
GROUP. ALL AGREED ON USEFULNESS OF MEETINGS.  
VAN BRUSSELEN DESIRED CENTER FUTURE MEETINGS MAINLY  
ON TEXTS IN ORDER TO SOLVE MAJOR DIFFICULTIES AND ONLY THEN  
DEAL WITH MORE MINOR DRAFTING DIFFICULTIES. US SUGGESTED  
THAT ANOTHER MEETING COULD MOST USEFULLY ALSO  
CONSIDER TACTICS WHICH SHOULD BE USED IN DECIDING  
WHETHER AND WHEN TO PRESENT ALTERNATE VERSIONS,  
IF AT ALL, AND TACTICS FOR CONSULTATIONS AND  
LOBBYING OUTSIDE OF GROUP, WHETHER IN NEW YORK OR  
CAPITALS. NETHERLANDS AGREED TACTICS EXTREMELY  
IMPORTANT, AND SUGGESTED MANY OF UK/US DIFFERENCES  
MORE RELATED TO TACTICS THAN SUBSTANCE. HE  
HOPED DELS WOULD RECEIVE FLEXIBLE INSTRUCTIONS

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RE TACTICS. UK SUPPORTED NETHERLANDS. HE ALSO  
MENTIONED SEPT. 17-18 COUNCIL OF EUROPE MEETING  
ON DRAFT ARTICLES AND SUGGESTED DELS TO  
THAT MEETING RECEIVE FULL REPORT ON VAN BRUSSELEN  
GROUP MEETINGS SO THAT POSITIONS WOULD BE CONSISTENT.  
BELGIAN URGED ON PARTICIPANTS TO HAVE DRAFT TEXTS  
OF REVISIONS THEY SUPPORTED READY FOR NEXT MEETING.  
AND IF POSSIBLE TO CIRCULATE SUCH TEXTS PRIOR TO  
MEETING. NEXT MEETING WAS SET FOR SEPTEMBER 5 AND  
IT AGREED MEETING WOULD CONSIDER BOTH TEXTS AND  
TACTICS.

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## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AGREEMENT DRAFT, POLICE PROTECTION RIGHTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 10 AUG 1973  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** hilburpw  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
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**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS SCALI  
**Errors:** N/A  
**Film Number:** n/a  
**From:** USUN NEW YORK  
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**Legacy Key:** link1973/newtext/t19730843/aaaabfty.tel  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 6  
**Previous Channel Indicators:**  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** 73 USUN NEW YORK 2539, 73 USUN NEW YORK 2806, 73 USUN NEW YORK 2570  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** hilburpw  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 07 SEP 2001  
**Review Event:**  
**Review Exemptions:** n/a  
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30 JUN 2005

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**Subject:** CONVENTION ON PROTECTION OF DIPLOMATS  
**TAGS:** PFOR, PINS, NL, AS, AU, UK, BE, GE, FR, SW, UN  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005